

June 24, 2019

VIA E-MAIL

Taylor-Scott Amarel
c/o MuckRock News
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Re: ESD FOIL Request #2834 – Appeal

Dear Mr. Amarel:

Empire State Development (“ESD”) has received your appeal, dated June 10, 2019, concerning your April 2, 2019 request for records made pursuant to the Freedom of Information Law (“FOIL”)¹ for the following:

[T]he last 200 pages of emails sent to, from, or copied to Howard Zemsky that contain the non-case-sensitive key-string “Mastroianni”

On May 31, 2019, ESD’s Records Access Officer (“RAO”) provided you with a response to your FOIL request. In that letter, ESD’s RAO informed you of the following:

Pursuant to Public Officers Law 87(2)(g), we have withheld responsive records from disclosure as they are “inter-agency or intra-agency materials which are not (i) statistical or factual tabulations or data; (ii) instructions to staff that affect the public; (iii) final agency policy or determination; (iv) external audits, including but not limited to audits performed by the comptroller and the federal government.”

In your appeal, you “request clarification on the number of records being withheld (pages) as well as a breakdown on the number of pages being withheld pursuant to each of the exceptions cited.”

Although there is a presumption of access under FOIL, exemptions exist permitting an agency to withhold records or portions thereof. In responding to your request, the RAO withheld two emails that were sent between ESD staff and these emails do not fall within any of the enumerated exceptions to the inter-/intra-agency exemption under FOIL.

Based on the foregoing, your appeal is denied.

¹ Public Officers Law, §84, et seq.

Sincerely,



Julene Beckford
Senior Counsel and
Records Access Appeals Officer

cc: Robert J. Freeman, Executive Director, NYS Committee on Open Government
Jason Easterly, Records Access Officer, Empire State Development